**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO.2303 OF 1992**

Smt Kalpana Sadashiv Patankar, .. Petitioner.
Vs
1. The University of Bombay
and 4 ors. .. Respondents

Mr Navin B. Shah, for the petitioner.
Mr R.A.Rodrigues, for respondent no.1.
Mrs S.S.Bhende, AGP for respondent no.4.
Mrs Shitre Talhar, for respondent no.6.

**CORAM : B.H.MARLAPALLE & D.B.BHOSALE,JJ.**
**DATE : March 28, 2006.**
**PC:**

1. The petitioner had appeared for the M.Sc.(Part- II) examination conducted by respondent no.1-University in April, 1988. On 7.6.1988, respondent no.2 published an advertisement inviting applications for some lecturers posts, one of them being a post of lecturer in Chemistry. As the petitioner had already appeared in the final year examination of M.Sc. (Chemistry), she submitted her application in response to the said advertisement and she was interviewed on 15.10.1988 and her result of the final year examination was declared on 4.8.1988 in which she secured First class. She was issued an appointment order on temporary basis by the Principal on 20.8.1980. The selection committee after the interviews held on 15.10.1988, submitted a list of the selected candidates to the Principal who, in turn, submitted the same to the respondent-University for approval. She claims that she

was given a letter dated 7.2.1989 thereby selecting her for the post of lecturer in Chemistry on probation with effect from 9.8.1988 and respondent no.3 submitted a proposal on 4.6.1990 for approval to respondent no.1-University under Statute no.417. However, by a letter dated 24.1.1991 respondent no.1-University informed that her appointment could not be approved on the ground that she was not qualified to apply for the post of lecturer in Chemistry as on the last date fixed for receiving applications, i.e. 22.6.1988. Respondent no.3 had sent a revised proposal to the University on 27.7.1991 and again the University turned it down by its communication dated 15.11.1991. Consequently, respondent no.3 released a fresh advertisement on 9.6.1992 to fill in the post of lecturer in Chemistry for the academic year 1992-93 and hence the petitioner approached this Court.

2. While granting Rule, status-quo was directed to be continued so that the petitioner remained in service and accordingly for the last more than 14 years or so the petitioner has been continued as a lecturer in Chemistry.

3. We have noted from the record that while she was continued in service her appointment was approved by the University on temporary basis during each academic year and there is no order confirming her service as a lecturer in Chemistry.

4. We have perused the affidavit in reply filed by the

University and more particularly the objection raised against the petitioner's candidature to the effect that Statute No.417 was not complied with. As per the University, on the last date fixed for receiving the applications the petitioner was required to possess M.Sc.degree and when the last date was 22.6.1988 the result was declared on 4.8.1988 and the marks memo was allegedly received by the petitioner for the first time on 29.8.1989. The fact remains as on the date the first appointment order was issued in favour of the petitioner on temporary basis for the period from 9.8.1988 to 15.10.1988 she had obtained M.Sc.degree. The University also admits that the petitioner possessed the due qualifications and save and except that she did not possess the said qualifications as on 22.6.1988 the University has no other ground to refuse approval to the petitioner's appointment. Mr Rodrigues, learned counsel for the University, after going through the affidavit in reply as pointed out that during the entire service record of the petitioner there is nothing adverse and the qualifications of M.Sc First Class met the requirement for the post of lecturer at the relevant time. However, so far as the regularisation of the petitioner's service is concerned, at this stage, the University and the State Government authorities will have to take into consideration the present rules and regulations and more

particularly the Government Resolution dated 18.10.2001 issued by the State of Maharashtra. The main relief prayed for in this petition is for a writ of mandamus against the University directing it to grant approval to the appointment of the petitioner as a lecturer in Chemistry under respondent nos 2 and 3. This issue will have to be considered by the respondents in the present circumstances and with due regards to the Government Resolution dated 18.10.2001. We have been assured by Mr Rodrigues, learned counsel for the respondent-University that the case of the petitioner will be considered expeditiously and strictly as per the rules applicable and the initial objection that she did not possess M.Sc degree as on 22.6.1988 would not be held against her.

5. We, therefore, dispose of this petition by directing respondent no.1-University to take appropriate steps for granting approval to the petitioner's post as lecturer and this should be done by following due process as expeditiously as possible and preferably within a period of eight weeks from the date of receipt of the proposal from respondent nos 2 and 3. Undoubtedly, respondent nos 2 and 3 shall submit a fresh proposal to respondent no.1-University (Registrar) within two weeks from today.

6. Rule made absolute in the above terms. Certified copy expedited.

**(D.B.BHOSALE, J.)** **(B.H.MARLAPALLE,J.)**